

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KATHLEEN A. MARTIN,

Plaintiff,

v.

MERCK & CO., INC., et al.,

Defendants.

Civil Action No. 05-11716-DPW

**MERCK & CO., INC.'S RESPONSE TO MOTION OF DEFENDANT
BRIGHAM AND WOMEN'S HOSPITAL TO DISMISS PLAINTIFF'S CLAIMS
PURSUANT TO FED. R. CIV. P. 8(a)(2) and (e)(1) and 12(b)(6)**

Defendant Brigham and Women's Hospital ("Brigham") filed a Motion to Dismiss on the grounds that the Complaint failed to give notice of the claims and grounds for any such claims. Merck & Co., Inc. ("Merck") concurs that the Complaint does not state a genuine claim against Brigham and cites that as evidence that Brigham has been fraudulently joined in an attempt to defeat Merck's right to litigate this case in the United States District Court.

Merck has moved for a stay and asks that all motions be deferred pending transfer of this case to *In re Vioxx Products Liab. Litig.*, No. 1657 ("VIOXX® MDL"). The reasons for that

deferral are set out in Merck's Opposition to Plaintiff's Motion to Remand and in Merck's Motion to Stay, both of which are incorporated herein by reference.

MERCK & CO., INC.
By its attorneys:

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Dated: September 30, 2005

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing document was served on September 30, 2005 electronically upon:

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